

Restoration of Competency to Stand Trial

§19.2-169.2

Model Court Order

**ORDER FOR TREATMENT OF
INCOMPETENT DEFENDANT**

Commonwealth of Virginia VA. CODE §§ 19.2-169.2, 19.2-169.3

Case No. 1

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COURT NAME AND ADDRESS

Commonwealth of Virginia v. 3

The Court having found, pursuant to Virginia Code § 19.2-169.1(E), that the Defendant is incompetent to stand trial, and having found further, based on the attached report or other evidence, that the Defendant can be treated to restore his or her competency

4 ☐ on an outpatient basis in jail or through a local mental health facility

5 ☐ solely on an inpatient basis in a hospital

the Court therefore ORDERS

☐ _____
NAME OF OUTPATIENT THERAPIST OR FACILITY

6 ☐ qualified staff at a hospital to be designated by the Commissioner of Behavioral Health and Developmental Services or his or her designee

to treat the Defendant in an effort to restore him to competency.

If, at any time after treatment commences, the director of the community services board or behavioral health authority or his designee or the director of the treating inpatient facility or his designee believes the defendant's competency is restored, the director or his designee shall immediately send a report to the court concerning (1) the defendant's capacity to understand the proceedings against him and (2) the defendant's ability to assist his attorney.

If, at any time after treatment commences, the director of the community services board or behavioral health authority or his designee or the director of the treating inpatient facility or his designee concludes that the defendant is likely to remain incompetent for the foreseeable future, he shall send a report to the court so stating and indicating whether, in the board, authority, or inpatient facility director's or his designee's opinion, the defendant should be (1) released from state custody; (2) committed pursuant to Virginia Code § 37.2-814 et seq.; or (3) certified pursuant to § 37.2-806 in the event he is found to be unrestorably incompetent.

7 ☐ *Defendant charged with a misdemeanor crime enumerated in Virginia Code § 19.2-169.3(C).* If the defendant has not been restored to competency after forty-five (45) days from the date of commencement of treatment, the director of the community services board or behavioral health authority, or the director of the treating inpatient facility, or any of their designees, shall send a report indicating the defendant's status to the court. The report shall also indicate whether the defendant should be released or committed pursuant to § 37.2-817 or certified pursuant to § 37.2-806.

If the defendant has not been restored to competency by six (6) months from the date of the commencement of treatment, the board, authority, or inpatient facility director or his designee shall send a report to the court so stating and indicating whether, in the director's opinion, the defendant remains restorable to competency or whether the defendant should be (1) released from state custody; (2) committed pursuant to Virginia Code § 37.2-814 et seq.; or (3) certified pursuant to Virginia Code § 37.2-806 in the event he is found to be unrestorably incompetent.

8

DATE

9

JUDGE

WARNING TO DEFENDANT: PURSUANT TO § 18.2-308.1:3, YOU SHALL NOT PURCHASE, POSSESS, OR TRANSPORT A FIREARM UNLESS AND UNTIL YOU ARE RELEASED FROM TREATMENT AND OBTAIN A COURT ORDER RESTORING YOUR RIGHT TO DO SO.

Data Elements

1. Court case number.
2. Court name and address.
3. Name of accused.
4. Type of treatment location suitable for defendant to receive treatment. Check this box if the defendant can be treated on an outpatient basis.
5. Type of treatment location suitable for defendant to receive treatment. Check this box if the defendant cannot be treated on an outpatient basis.
6. Check the appropriate box indicating order and, if applicable, name the therapy provider, to show specific therapy provider.
7. Check this box if the defendant was charged with a misdemeanor crime enumerated in Virginia Code § 19.2-169.3(C).
8. Date of entry of order.
9. Signature of judge.